

---

By: **Senators Jacobs and Hooper**

Introduced and read first time: January 30, 2003

Assigned to: Education, Health, and Environmental Affairs

---

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Food Establishments - Food**  
3 **Bank Regulation**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to adopt  
5 separate and less stringent regulations for a certain food establishment that  
6 dispenses donated food; requiring the Department to consider certain factors  
7 about the food establishment in the regulations adopted; and generally relating  
8 to the regulation of food establishments.

9 BY repealing and reenacting, without amendments,  
10 Article - Health - General  
11 Section 21-301(a), (f), (g), and (h)  
12 Annotated Code of Maryland  
13 (2000 Replacement Volume and 2002 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Health - General  
16 Section 21-304(a)  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2002 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Health - General**

22 21-301.

23 (a) In this subtitle the following words have the meanings indicated.

24 (f) "Food establishment" means:

25 (1) A food service facility; or

26 (2) A food processing plant.

1 (g) (1) "Food processing plant" means any place used for, or in connection  
2 with, the commercial manufacturing, preparing, processing, packaging, canning,  
3 freezing, storing, distributing, labeling, or holding of food or drink for human  
4 consumption.

5 (2) "Food processing plant" includes:

- 6 (i) A bakery plant;
- 7 (ii) A cannery;
- 8 (iii) A confectionery plant;
- 9 (iv) A crab meat picking plant;
- 10 (v) A food manufacturing plant;
- 11 (vi) A food warehouse or distribution center;
- 12 (vii) A frozen food processing plant;
- 13 (viii) An ice manufacturing plant;
- 14 (ix) A shellfish plant;
- 15 (x) A soft drink manufacturing plant; or
- 16 (xi) A bottled water plant.

17 (3) "Food processing plant" does not include a warehouse or distribution  
18 center that:

- 19 (i) Does not process food; and
- 20 (ii) Stores only sealed containers of whole bean, ground or instant  
21 coffee, leaf or instant teas, nondairy dehydrated whiteners, sugar, or sugar-free  
22 sweeteners.

23 (h) (1) "Food service facility" means:

- 24 (i) A place where food or drink is prepared for sale or service on the  
25 premises or elsewhere; or
- 26 (ii) Any operation where food is served to or provided for the public,  
27 with or without charge.

28 (2) "Food service facility" does not include:

- 29 (i) A kitchen in a private home where food is prepared at no charge  
30 for guests in the home, for guests at a social gathering, or for service to unemployed,  
31 homeless or other disadvantaged populations; or

1 (ii) A food preparation or serving area where only nonpotentially  
2 hazardous food, as defined by the United States Food and Drug Administration, is  
3 prepared or served only by an excluded organization.

4 21-304.

5 (a) (1) The Department shall adopt rules and regulations necessary to carry  
6 out the provisions of this subtitle.

7 (2) FOR A FOOD ESTABLISHMENT THAT IS A NONPROFIT CORPORATION,  
8 ORGANIZATION, OR ASSOCIATION THAT DISPENSES DONATED FOOD, THE  
9 DEPARTMENT:

10 (I) SHALL ADOPT SEPARATE AND LESS STRINGENT REGULATIONS  
11 THAN THE REGULATIONS ESTABLISHED FOR OTHER FOOD ESTABLISHMENTS; AND

12 (II) CONSIDER THE FINANCIAL SITUATION OF AND THE  
13 COMMUNITY SERVICES PROVIDED BY THE NONPROFIT CORPORATION,  
14 ORGANIZATION, OR ASSOCIATION IN THE REQUIREMENTS OF THE REGULATIONS  
15 ADOPTED UNDER THIS SECTION.

16 (3) For excluded organizations, the Department:

17 (i) Shall adopt separate regulations that establish minimum  
18 standards that:

- 19 1. Ensure food integrity and safety;
- 20 2. Preserve public health; and
- 21 3. Control foodborne illnesses; and

22 (ii) May adopt separate regulations that establish a licensing  
23 system, with appropriate standards, that excluded organizations may voluntarily  
24 choose to submit to as a nonrescindable alternative to regulation under subparagraph  
25 (i) of this paragraph.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2003.